



## VIRGINIA WORKERS' COMPENSATION COMMISSION

### GLOSSARY OF WORKERS' COMPENSATION TERMS

These are commonly used workers' compensation terms for the Commonwealth of Virginia. These definitions are general in nature and are not intended as a legal guide.

**20-Day Order Payments Made:** An official court document that is generated when the Claim Administrator reports payments to the Commission; the Claim Administrator has 20 days to respond. This document is generated when the total medical expenses paid exceeds \$3,500, no Award has been entered, and if wage loss is paid and the Commission has no matching Award on file.

**30-Day Order Claim Filed:** An official court document that directs the Claim Administrator, Insurance Carrier and/or Designated Representative to respond to an injured worker's claim form within 30 days. The Claim Administrator, Insurance Carrier and/or Designated Representative may either accept or deny the claim.

**90-Day Rule:** See Change in Condition.

**500-weeks:** The maximum number of weeks an injured worker can receive compensation, except in cases of permanent and total incapacity and certain occupational diseases.

**Alternative Dispute Resolution:** A way for parties to resolve disputes without the need for a hearing. This term also refers to mediation. Mediation is a voluntary and confidential informal dispute resolution process where a neutral third party (mediator) facilitates communication to assist the parties in mediating an agreeable solution. The purpose of mediation is to identify issues, clarify misunderstandings, explore solutions and mediate an agreement. Any party to a claim may request mediation to resolve a dispute quickly or to negotiate the compromise settlement of a claim. An injured worker does not have to be represented by an attorney unless they wish to mediate a compromise settlement.

**American Medical Association (AMA):** A national physician's group. The AMA publishes a set of guidelines called "Guides to the Evaluation of Permanent Impairment." A physician may determine the level of impairment using the AMA's guides.

**Amputation Chart:** A form completed by a physician to show the point of amputation.

**Appeal:** To ask a higher court to review a decision.

**Assertion of Rights:** This is also known as a protective filing. Assertion of rights means that an injured worker wishes to protect their rights but requests no action be taken on the claim at the present time (*certain statutes of limitations pursuant to Code Section 65.2 may still apply*).

**Assigned Risk Market:** See Residual Market.

**Attending Physician's Report:** A form completed by the attending physician that describes the nature and extent of an injury. The use of this form is optional.

**Attorney:** The person representing the injured worker, employer, claim administrator, and/or insurance carrier.

**Average Weekly Wage (AWW):** The earnings of the injured worker in the employment in which they were working at the time of the injury. This is usually calculated by adding the wages of the worker for the 52 weeks prior to the injury, divided by 52.

**Award:** The grant or denial of benefits or other relief under The Virginia Worker's Compensation Act.

**Award Order:** See Award.

**Award Agreement (Agreement to Pay Benefits – Form #CSD-50):** This form is completed by the Claim Administrator whenever a claim has been accepted as compensable and the injured worker is entitled to an award. The Award Agreement provides the basis for the award of compensation.

**Benefits Covered under the Act:** The following benefits are covered under the Workers' Compensation Act: wage replacement, lifetime medical benefits, permanent partial impairment, permanent and total disability, death benefits, cost of living increase, and vocational rehabilitation.

**Burden of Proof:** The legal requirement of a party to prove a fact by a standard of evidence. For example, the injured worker is required to prove by a "preponderance of evidence" that they suffered an injury by accident which arose out of and in the course of employment.

**Bureau of Insurance:** The Bureau shares in dual regulation of workers' compensation insurance in Virginia with the Workers' Compensation Commission. The Property and Casualty Market Regulation Division monitors the market activities of companies and agents within the Property and Casualty classes of insurance. Their responsibilities include regulating the insurance rates and underwriting, performing insurance investigations, and resolving complaints about agents, agencies and insurance carriers.

**Carrier:** See Insurance Carrier.

**Cease and Desist:** The Commission may order an employer to Cease and Desist all business transactions and operations in Virginia upon a finding that the employer failed to insure when required by the Act.

**Change in Condition:** A change in physical condition of the injured worker, as well as any change in the conditions under which compensation was awarded, suspended, or terminated which would affect the right to, amount of, or duration of compensation. A change in condition claim must be in writing and state the change relied upon. A copy of the claim should be sent to the employer. Additional compensation may not normally be awarded more than 90 days before the filing of the claim with the Commission. COLA benefits are not subject to this limitation.

**Claim Form:** This form is completed by an injured worker to either assert their rights or request benefits. The injured worker must file a claim with the Virginia Workers' Compensation Commission within two years from the date of injury, in most cases (*certain statutes pursuant to Code Section 65.2 may toll the statute of limitations*). In most cases of occupational diseases, a claim must be filed within two years from the date the doctor tells you the disease is work related, or five years from the date you were last exposed to the work condition causing the disease, whichever is sooner. Certain diseases have different limitation periods.

**Claimant:** See Injured Worker.

**Claim Adjuster:** The individual at the Claim Administrator that has been assigned to handle a particular workers' compensation claim.

**Claim Administrator:** A Claim Administrator is the organization responsible for administering workers' compensation claims. This may include paying compensation if ordered, submitting the required EDI transactions, and sometimes scheduling medical appointments. A Claim Administrator can either be a self-administered insurance carrier, self-administered self-insured employer, or a third-party administrator hired by an insurance company or self-insured employer to handle their workers' compensation claims.

**Claim Administrator Claim Number:** An internal filing number assigned by the insurance carrier to the file of an injured worker. This number is different from the Commission's Jurisdiction Claim Number (JCN).

**Claim Examiner:** See Claim Adjuster.

**Classification Code:** The employer's classification code is one of three factors that determine the pricing of the employer's workers' compensation insurance policy. These codes are established by NCCI (National Council on Compensation Insurance) and are listed in the NCCI Scopes Manual. Virginia has 640 classification codes, each representing a unique industry or segment within an industry. Each code is assigned a rate per \$100 of payroll based upon how hazardous the industry is. Many businesses have several class codes but one governing class code. A business should be familiar with its proper class code(s) and ensure that it is accurately reflected on its policy. Class code errors can result in significant premium differentials.

**Commission:** See Virginia Workers' Compensation Commission.

**Commissioners:** The Commission is headed by three Commissioners. The Commissioners are chosen by the General Assembly and serve six-year terms. The Commissioners are also appointed to review and reconsider decisions of Deputy Commissioners.

**Compensable Claim:** A claim in which the Claim Administrator and/or Insurance Carrier agrees or the Commission finds that an injury or occupational disease arose out of and in the course of employment and is covered under the Virginia Workers' Compensation Act (Code Section 65.2).

**Compensation Rate:** The weekly amount of compensation to which the injured worker is entitled by an award from the Commission. For temporary total, permanent total, and permanent partial

disability benefits, the compensation rate is calculated by multiplying the injured worker's pre-injury gross average weekly wage by .66667. When the injured worker is working but earning less than the pre-injury average weekly wage, the compensation rate is calculated by taking the difference between the injured worker's pre-injury average weekly wage and the current weekly wage, and multiplying that amount by .66667.

**Compromise Settlement:** A type of settlement in which an injured worker receives a lump sum payment and may become responsible for paying for future medical expenses. The Commission does not negotiate settlements. This type of settlement has to be approved/disapproved by a Deputy Commissioner. This is also known as a Petition and Order.

**Cost of Living Adjustment (COLA):** If an injured worker is receiving temporary total, permanent total, or death benefits they are entitled to a cost of living increase effective October 1<sup>st</sup> of each year if the date of accident is prior to July 1<sup>st</sup> of that year and if the combination of compensation and Social Security benefits are less than 80% of the pre-injury earnings. Cost of living increases must be specifically requested by the injured worker.

**Counsel:** See Defense Counsel or Injured Worker's Counsel.

**Court of Appeals of Virginia:** An 11-judge body that hears appeals from decisions of Virginia's circuit courts and the Virginia Workers' Compensation Commission.

**Criminal Injuries Compensation Fund (CICF):** See Virginia Victims Fund (VVF).

**Date of Accident:** See Date of Injury.

**Date of Injury:** The date an injured worker was injured or exposed or diagnosed with an occupational disease. The injured worker must file a claim with the Virginia Workers' Compensation Commission within two years from the date of injury, in most cases (*certain statutes pursuant to Code Section 65.2 may toll the statute of limitations*). In most cases of occupational diseases, a claim must be filed within two years from the date a doctor determines the disease is work related, or five years from the date last exposed to the work condition causing the disease, whichever is sooner. Certain diseases have different limitation periods.

**Death Benefits:** A surviving spouse, children under 18, children under 23 enrolled full-time in an accredited educational institution, parents in destitute circumstances or other qualifying dependents may be entitled to wage loss benefits. Death benefits include funeral expenses not to exceed \$10,000 and transportation cost of \$1,000.

**Decision:** See Judicial Opinion.

**Defendant:** The party – typically the employer, claim administrator, or insurance carrier – opposing an injured worker in a dispute over benefits or services.

**Defense Counsel (PD):** The attorney(s) representing the employer, claim administrator, and/or insurance carrier.

**Denied Claim:** A claim in which the Claim Administrator and/or Insurance Carrier disagrees that

an injury or occupational disease arose out of and in the course of employment and is covered under the Virginia Workers' Compensation Act (Code Section 65.2). An injured worker may appeal a denial by requesting a hearing in writing or by using the Claim Form.

**Deputy Commissioner:** An employee of the Commission who makes decisions relating to Virginia workers' compensation disputes. Deputy Commissioners conduct evidentiary hearings, on-the-record hearings, and approve or disapprove compromise settlements. The decision of a Deputy Commissioner can be appealed by requesting a Review to the Full Commission.

**Disability Rating:** See Permanent Partial Disability Rating.

**Discovery:** The fact-finding process that may take place after a claim has been filed. Discovery may be obtained by oral or written deposition, interrogatories to parties, production of documents or things, requests for admission, inspection of premises or other means of inquiry approved by the Commission. Certain rules apply concerning this process.

**Dispute:** A disagreement between an injured worker and Claim Administrator about the right to payments, services or other benefits.

**Dismissed with Prejudice:** The plaintiff or injured worker is barred from bringing an action on the same claim.

**Dismissed without Prejudice:** The plaintiff or injured worker may file a new suit on the same claim within the statute of limitations.

**Docket:** A calendar of the cases that have been scheduled for a hearing and pending determination.

**Docketed:** A case is docketed if it has been referred for a hearing and placed on a Deputy Commissioner's docket. The Deputy Commissioner's office schedules the case for a hearing and notifies the parties of the date, time, and location of the hearing.

**Electronic Data Interchange (EDI):** The method used to exchange data electronically between the Commission and those organizations submitting claim reports to the Commission. The International Association of Industrial Accident Boards and Commissions (IAIABC) is the international organization that developed and implemented the EDI Standard for Workers' Compensation claims reporting that is used by the Commission today. Virginia has selected and implemented the IAIABC Release 3 format for EDI reporting of Workers' Compensation claims information.

**Employee:** Every person, including aliens and minors, in the service of another under any contract of hire or apprenticeship, written or implied, where lawfully or unlawfully employed.

Note: Virginia law exempts some workers from being considered employees under the Workers' Compensation Act. In particular, employees of an employer that has regularly in service less than three employees in Virginia, is not considered an employee under the Act, unless the employer voluntarily elects to cover such employees.

**Employer:** The person or entity with control over employees work activities.

**Employer's Application (Form 5A):** This form is used by the self-insured employer, insurance carrier, claim administrator or their legal counsel to complete and submit to the Commission along with the required documentary evidence in order to suspend or terminate an injured worker's compensation benefits under an existing Award of the Commission based upon a change in condition. In addition, this form may be used to request other relief from the Commission.

**Employment Marketing:** See Light Duty Restrictions.

**Endorsement:** An endorsement is a written document attached to an insurance policy that modifies the policy by changing the coverage afforded under the policy. An endorsement can add coverage for acts or things that are not covered as a part of the original policy and can be added at the inception of the policy or later during the term of the policy.

**Evidentiary Hearing:** See Hearings.

**Executive Officer:** Means (i) the president, vice-president, secretary, treasurer or other officer, elected or appointed in accordance with the charter and bylaws of a corporation and (ii) the managers elected or appointed in accordance with the articles of organization or operating agreement of a limited liability company. However, such term does not include non-compensated officers of corporations exempt from taxation pursuant to § 501(c)(3) of Title 26 of the United States Code (Internal Revenue Code of 1954).

**Expedited Hearing:** An expedited hearing may be requested if the employer's denial of benefits, after initial compensability has been established, will cause the injured worker to incur severe economic hardship. An injured worker seeking an expedited hearing must file with the Commission an Expedited Hearing Request Form along with supporting documentation (the form is available on the Commission's website).

**Experience Modifier:** The experience modifier is one of three factors that determine the pricing of an employer's workers' compensation insurance policy. In simple terms, the "Experience Mod" compares one employer's workers' compensation claims experience (claims and loss history) to other employers of similar size operating in the same type of business. An employer that has fewer claims than other companies of the same size and industry will receive a lower Experience Mod ratio. This ratio is used to calculate the employer's annual premium. Experienced companies that monitor their workers' compensation premium understand and utilize their Experience Mod annually. An Experience Mod of 1.0 is considered neutral. An e-mod below 1.0 is considered more positive and results in a lower premium. An e-mod above 1.0 is attributable to more frequent claims and is less desirable and results in higher premium. Understanding the experience modifier, monitoring it regularly and taking control of workplace safety is key in reducing workers' compensation costs.

**Family and Medical Leave Act (FMLA):** The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. For more information, contact the U.S. Department of Labor, Wage and Hour Division at 866-487-9243.

**Fee Schedules:** See Medical Fee Schedules.

**Filed:** Means hand delivered to the Commission's headquarters in Richmond or any regional office maintained by the Commission; sent by means of electronic transmission approved by the Commission; sent by facsimile transmission; or posted at any post office of the United States Postal Service by certified or registered mail. Filing by first-class mail, electronic transmission, or facsimile transmission shall be deemed completed only when the document or other material transmitted reaches the Commission or its designated agent. The Commission does not accept filings by email.

**Filing:** Sending or delivering a document. The date of filing is the date the document was received or the postmark date of Certified Mail. The Commission does not accept filings by email.

**First Report of Injury (FROI):** The initial claims report filed with the Commission by or on behalf of the insurance carrier or self-insurer concerning an injury. A FROI is also a method to report a denial, a change of information previously reported via EDI, a Claim Administrator acquisition, and a cancelation of a claim.

**Fraud:** As it relates to worker's compensation, fraud occurs when an employee claims to have suffered an injury while on the job and either did not suffer an injury at all, or received the injury while doing something non-work-related. The Commission does not investigate cases of fraud; these cases are investigated by the Virginia State Police. They can be reached at 877-623-7283. Employers can also commit worker's compensation fraud by understating the number of employees or the type of work they do. Anyone can report potential employee misclassification by contacting the Department of Taxation at <https://www.tax.virginia.gov/worker-misclassification> to report an employer. If fraud is believed to be committed by understating the number of employees this can be reported by using the VENCA (Virginia Employer Non-Compliance Alerts) at <https://vencalerts.com/> on the VWC Public Website.

**Full and Final Mediation (FFM):** A form of mediation where parties wish to mediate a Compromise Settlement. Also see Alternative Dispute Resolution.

**Functional Capacity Evaluation (FCE):** The Functional Capacity Evaluation is a comprehensive series of performance-based tests that help objectively measure injured workers' physical abilities. The tests gauge physical strength, range of motion, stamina and tolerance of functional activities.

**Health Care Provider:** An individual or an institution that provides preventive, curative, promotional or rehabilitative health care services in a systematic way to individuals, families or communities.

**Hearing:** Legal proceedings in which a Deputy Commissioner discusses the issues in a case or receives information in order to decide about a dispute or a proposed settlement. There are two types of hearings: Evidentiary and On-the-Record. An Evidentiary hearing is a hearing in which the parties personally appear before a Deputy Commissioner. Testimony is taken under oath and witnesses can be cross-examined. An On-the-Record hearing is a hearing in which there is no material fact in dispute as to any contested issue. The parties do not personally appear before a Deputy Commissioner. After each party has been given the opportunity to file a position statement of the evidence supporting a claim or defense, the Commission enters a decision on the record.

**Hearing Location:** See Venue.

**Impairment Rating:** A percentage estimate to determine the loss or loss of use to an extremity. Impairment ratings are usually determined based on guidelines published by the American Medical Association (AMA). The Commission cannot process a claim for permanency benefits until a statement of maximum medical improvement and physician's rating is received. Ratings involving disfigurements and scarring are determined by the Commission.

**Indemnity:** Reimbursement/compensation for loss.

**Independent Contractor:** Under the Virginia Workers' Compensation Act, an employee is a person who is under written or implied contract of hire "except one whose employment is not in the usual course of the trade, business, occupation or profession of the employer." In distinguishing between an employee and an independent contractor, some important considerations are (1) the right to hire, (2) the power to dismiss, (3) the obligation to pay wages, and, most importantly (4) the power to control the means and methods by which the work is done.

**Independent Medical Evaluation:** The Commission may appoint a disinterested physician or surgeon to make a necessary medical examination. This authority is exercised to help the Commission resolve a conflict in the medical opinions or to prevent a perpetration of fraud on the Commission. The employer or insurance carrier may also require an injured worker to submit to an Independent Medical Examination. However, no employer may obtain more than one examination per medical specialty without prior authorization from the Commission, based upon a showing of good cause or necessity.

**Injured Worker:** The party who sustained an injury or occupational disease on the job. The injured worker must file a claim with the Virginia Workers' Compensation Commission within two years from the date of injury, in most cases (certain statutes pursuant to Code Section 65.2 may toll the statute of limitations). In most cases of occupational diseases, a claim must be filed within two years from the date the doctor tells you the disease is work related, or five years from the date you were last exposed to the work condition causing the disease, whichever is sooner. Certain diseases have different limitation periods. Once a claim is filed, the injured worker is known as a Claimant.

**Injured Worker's Counsel (PQ):** The attorney(s) representing an injured worker. The injured worker is not required to have an attorney.

**Insurance Carrier:** A company licensed to write workers' compensation coverage in Virginia.

**International Association of Industrial Accident Boards and Commissions (IAIABC):** Is an association of government agencies that administer and regulate their jurisdiction's workers' compensation acts. Also see EDI.

**Judge:** See Commissioner and Deputy Commissioner.

**Judicial Opinion:** A written decision issued by a Deputy Commissioner within a few weeks of the hearing. If a party disagrees with the decision, they can appeal to the Full Commission.

**Jurisdiction Claim Number (JCN):** This number is assigned to an injured worker when their claim is reported to the Commission. An injured worker is encouraged to include the JCN on any and all correspondences sent to the Commission. This number was formerly known as the VWC File Number. Examples of JCNs: VA00000123456, VA01002421234, VA02000001234, 123-34-56.

**Lien:** A right or claim for payment against a workers' compensation case.

**Lifetime Medical Benefits:** Medical expenses for conditions caused by the accident or occupational disease are payable for as long as necessary, provided a claim was filed by the injured worker within the required time period and the expenses are reasonable and necessary. The injured worker is entitled to reimbursement for out-of-pocket medical expenses (prescriptions) and reasonable medical mileage. All medical bills should be sent to the Claim Administrator for payment.

**Light Duty Restrictions:** The treating physician's description of the work an injured worker can and cannot do. If an injured worker is released to return-to-work with light duty restrictions, they have a duty to reasonably market their residual work capacity. The guidelines on looking for light duty are available on the Commission's website.

**Maximal Medical Improvement (MMI):** An injury that is well stabilized and unlikely to change substantially, with or without medical treatment. Once an injured worker reaches MMI, a physician can assess how much, if any, permanent partial disability resulted from the work injury.

**Mediation:** See Alternative Dispute Resolution.

**Medical Fee Schedules:** The Virginia Workers' Compensation Medical Fee Schedules (MFS) outline maximum fees for health care providers, hospitals, and ambulatory surgical centers, rendering health care services to injured workers as provided in the Virginia Workers' Compensation Act. The MFS applies to healthcare services provided to an injured worker for any dates of service on or after January 1, 2018, regardless of the date of injury.

**Medical Only Award:** An Award that provides lifetime medical benefits for reasonable, necessary, and authorized medical treatment causally related to the work-related injury; this Award does not provide wage replacement. If an injured worker has a claim for wage replacement, a claim must normally be filed within two years from the date of injury (*certain statutes pursuant to Code Section 65.2 may toll the statute of limitations*). This may also be known as Medical Benefits Only (MBO).

**Medical Provider Application:** Health care providers play a vital role in the claim process. Accordingly, they have certain rights and remedies available to them under the Virginia Workers' Compensation Act. If a dispute arises as to reimbursement for a medical charge, the health care provider may file a claim or request mediation to resolve the dispute over payment of medical services rendered to an injured worker.

**Medical Treatment:** Treatment reasonably required to cure or relieve the effects of a work-related injury or occupational disease. If an injured worker seeks treatment outside of their authorized treating physician, then they may be responsible for the payment of medical costs.

**Narrative Medical Records:** A report written by a physician that describes the injured worker's medical condition. Certain rules apply regarding the submission of medical records.

**National Council on Compensation Insurance (NCCI):** An insurance rating and data collection bureau that specializes in workers' compensation. NCCI provides insurance data products and services to 38 state governments and to over 900 insurance companies. NCCI is Virginia's Designated Agent for receipt of insurance transactions and Administrator for Virginia's Assigned Risk Market.

**Notice:** Every injured worker or their representative shall immediately on the occurrence of an accident or soon thereafter as practicable, give or cause to be given to the employer a written notice of the accident. The notice shall state the name and address of the injured worker, the time and place of the accident, and the nature and cause of the accident and injury.

**Notification of Injury:** Once an injury is reported to the Commission, the Commission will notify the parties by sending the Notification of Injury letter. This document informs the parties of their rights and responsibilities.

**Occupational Disease:** A disease arising out of, and in the course of employment, but not an ordinary disease of life to which the general public is exposed outside of the employment.

**Out-of-Pocket Expenses:** See Lifetime Medical Benefits.

**Panel of Physicians:** As long as necessary after an accident, the employer must provide, free of charge to the injured worker, a physician chosen by the injured worker from a panel of at least three physicians selected by the employer. The injured worker must select a doctor from the panel provided by the employer/insurance carrier. If a panel is not provided after notice of the injury, the injured worker may seek treatment from any physician. The treating physician may refer the injured worker to other physicians. Once treatment begins, the physician cannot be changed without approval of the employer/insurance carrier or after a hearing by the Commission. The employee must cooperate with medical treatment or the weekly benefits may be suspended.

**Party:** Parties to a claim include the injured worker, employer, insurance carrier, claim administrator, and attorneys of record for the injured worker, employer, or insurance carrier. Typically, family members are not considered parties to the claim unless the Commission has authorization from the injured worker. This may also include health care providers who have filed a claim, and their attorneys of record.

**Peer Review:** Peer Review under Regulations of the Virginia Workers' Compensation Commission (sections 16 VAC 30-60-10 through 16 VAC 30-60-140; 16 VAC 30-70-10 through 16 VAC 30-70-120) was repealed effective March 7, 2017.

**Permanent Partial Disability Benefits (PPD):** Separate benefits are payable for the permanent loss of use of a body part such as an arm, leg, finger, or eye. Vision and hearing loss, as well as disfigurement may also be compensated. This does not include the back, neck or body as a whole. Benefits are for a specific number of weeks depending on the percentage of loss. The injured worker can receive these benefits while working if maximum medical improvement has been reached. An

injured worker cannot receive permanent partial and temporary total disability benefits at the same time.

**Permanent and Total Disability Benefits (PTD):** Lifetime wage benefits may be payable if an injured worker loses both hands, arms, feet, legs, eyes, or any two in the same accident, or is paralyzed or disabled from a severe brain injury. This benefit is paid at the conclusion of a 500-week award for temporary total disability benefits.

**Penalty:** If an injured worker is awarded compensation and is not paid within two weeks after it becomes due, the injured worker may request a 20% penalty against the insurance carrier for untimely payments. The Commission shall assess a monetary penalty to an employer that fails to insure for workers' compensation when required and for failing to make a report required by the Commission. The Commission also has the authority to issue a penalty to an insurance carrier, self-insurer, group self-insurance association, or third-party administrator for failure to make a report required by the Commission or to a professional employer organization for failure to comply with the Act. Other penalties are allowed under the Act. Not all are enumerated here.

**Petition and Order:** See Compromise Settlement.

**Plaintiff:** See Injured Worker.

**Pro se:** An injured worker not represented by an attorney.

**Professional Employer Organization (PEO):** Any person that enters into a written agreement with a client company to provide professional employer services. "Professional employer services" means services provided to a client company pursuant to a written agreement with a professional employer organization whereby the professional employer organization initially employs all or a majority of a client company's workforce and assumes responsibilities as an employer for all co-employees that are assigned, allocated, or shared by the agreement between the professional employer organization and the client company. A PEO is required to register with the Commission prior to transacting business in Virginia.

**Proof of Coverage (POC):** Each employer that is required to insure for workers' compensation is required to provide evidence of compliance, known as proof of coverage. When the employer secures coverage through an insurance carrier, the insurance carrier files coverage electronically with then Commission's designated agent, NCCI. The Commission accepts as proof of coverage a Policy, Binder, Information Page or Declaration Page.

**Proof of Service:** A form used to show that documents have been sent to specific parties.

**Protective filing:** See Assertion of Rights.

**Rating:** See Impairment Rating.

**Rejection of Coverage (Form 16A):** This is a form that may be filed by an executive officer or their agent should the officer elect to exclude themselves from coverage under the Act. An executive officer means (i) president, vice-president, secretary, treasurer or other officer, elected or

appointed in accordance with the charter and bylaws of a corporation and (ii) the manager elected or appointed in accordance with the articles of organization or operating agreement of a limited liability company. It does not include persons with the title of director, LLC member or chairman. An officer may exclude themselves from coverage for injury or death by accident, but not for occupational disease. A Rejection of Coverage filing is commonly performed in order to reduce the insurance premium on the business workers' compensation insurance policy.

**Request for Benefits:** See Claim Form.

**Request for Hearing:** See Claim Form.

**Request for Review:** An appeal to the Commissioners to review and reconsider a decision made by a Deputy Commissioner.

**Residual Market:** The residual market (also known as the assigned risk market) serves as a coverage source of last resort for employers who are unable to locate commercial workers' compensation coverage with a voluntary market insurance carrier. Residual markets require insurance carriers writing specific coverage lines in a given state to assume the profits or losses accruing from insuring that state's residual risks in proportion to their share of the total voluntary market premiums written in that state. The residual market ensures that coverage is available to all risks. For Virginia, NCCI is the Commission's designated agent for overseeing the Residual Market. Applications for the residual market are handled by several insurance carriers that bid to handle the market for Virginia.

**Restrictions:** See Work Restrictions.

**Return to Work (RTW):** A release by the injured worker's treating physician indicating they are able to return to work at the pre-injury wage or return to pre-injury work.

**Rules of the Virginia Workers' Compensation Commission:** There are thirteen Rules of the Commission. These rules are issued to provide procedures to identify and resolve disputed issues promptly through informal dispute resolution or hearing.

**Seven Day Waiting Period:** Compensation is not allowed for the first seven calendar days of incapacity. If incapacity extends beyond the waiting period, then compensation will start on the eighth day of disability. If incapacity continues for a period of more than three weeks (21 days), then compensation is allowed from the first day of incapacity.

**Show Cause:** An order of the Commission directing an individual to appear on a certain date to show cause or explain why the Commission should not issue a specific order or make a certain finding. Example: to show cause why an employer with no workers' compensation coverage should not be assessed a monetary penalty for failure to insure for workers' compensation.

**Statute of Limitations:** The time frame set for filing a claim. Also see Date of Injury and Claim Form. Even if the Statute of Limitations has run, the Commission does not discourage an injured worker from filing a claim.

**Statutory Employer:** A person or business owner that hires or contracts work to another person or subcontractor to perform work that is either: 1) part of their own trade, business or occupation; or 2) to fulfill a contract or any part of a contract.

**Subpoena Duces Tecum:** A document that requires records be sent to the requester (certain rules apply regarding the issuance of this document).

**Subpoena for Witness:** A document that requires a witness to appear at a hearing (certain rules apply regarding the issuance of this document).

**Subsequent Report of Injury (SROI):** A subsequent report sent to the Commission to report the initiation and suspension of indemnity payments and the total medical payments made to date.

**Supreme Court of Virginia:** The highest court in the Commonwealth of Virginia. It hears cases that are initially appealed to the Court of Appeals of Virginia.

**Temporary Partial Disability Benefits (TPD):** If the injured worker cannot return to regular work and is given a light duty job at a lower wage, benefits are 2/3 of the difference between the pre-injury wage and the current pay, up to the maximum weekly limit. Cost of living supplements are not paid on temporary partial benefits.

**Temporary Total Disability (TTD):** While temporarily unable to perform any work, an injured worker is entitled to 2/3 of their gross average weekly wage up to a set maximum weekly limit. There must be seven days of disability before benefits are payable. However, if disabled for more than three weeks (21 days), the injured worker receives payment for the first seven days. If an injured worker is released to return to work with restrictions but the employer has no work within those restrictions, an injured worker may receive temporary total disability benefits but must market their residual capacity to find work within those restrictions. Benefits cannot exceed 500 weeks unless the person is permanently and totally disabled. Also see Light Duty Restrictions.

**Termination of Wage Loss Award (Form #CSD-133):** This form is to be completed by the Claim Administrator when the injured worker returns to work at the pre-injury wage or is able to return to pre-injury work.

**Transportation Expenses:** See Lifetime Medical Benefits.

**Treating Doctor:** See Treating Physician.

**Treating Physician:** The physician selected by the injured worker from the panel of physicians provided by the employer/insurance carrier. Also see Panel of Physicians.

**Uninsured Employer's Fund (UEF):** A fund administered, maintained, and disbursed by the Commission, through which benefits can be paid if the employer is illegally uninsured for workers' compensation.

**Venue:** The location of the hearing is called the venue. On most occasions, a case is set for hearing

in the city or county where the accident occurred or in an adjacent county. However, the Commission has the discretion to set a case in a venue different from the location where the accident occurred.

**Virginia Victims Fund (VVF):** The Virginia Victims Fund (VVF), officially the Criminal Injuries Compensation Fund, is a state program created to help victims of violent crime with out-of-pocket expenses. Expenses include medical bills, prescriptions, funeral expenses, and many others. The program is administered by the Virginia Workers' Compensation Commission. For more information, contact [info@virginiavictimsfund.org](mailto:info@virginiavictimsfund.org) or 800-552-4007.

**Virginia Workers' Compensation Act (Code Section 65.2):** The Virginia Workers' Compensation Act ("the Act") was enacted on March 21, 1918, and became effective on January 1, 1919. The Act was intended to provide a comprehensive benefit structure for injured workers. It provides wage loss benefits as well as reimbursement for medical expenses related to the compensable injury. The Virginia Workers' Compensation Commission administers the provisions of the Act generally, and acts as an adjudicator where a dispute arises between the parties as to workers' rights or employers' obligations.

**Virginia Workers' Compensation Commission:** The agency charged with administering the Virginia's workers' compensation program, which applies to most employers doing business in Virginia and most employees working in Virginia. The Commission is a court system and is not an advocate for injured workers. The Commission does not provide the following: legal advice/legal guidance, legal representation, distribution of money, or schedule medical appointments, except in cases of IMEs. The Commission is headed by three Commissioners and an Executive Director. Commission also means the Virginia Workers' Compensation Commission as well as its former designation as the Virginia Industrial Commission.

**Vocational Rehabilitation:** A benefit covered under the Virginia Workers' Compensation Act. Vocational rehabilitation services may include vocational evaluation, counseling, job coaching, job development, job placement, on-the-job training, education and retraining.

**Wage Replacement:** See Temporary Total Disability (TTD) benefits and Temporary Partial Disability (TPD) benefits.

**WebFile:** The Virginia Workers' Compensation Commission's online portal to electronic records. WebFile has been set up so that, based on your role, one can manage records and take care of key transactions online. For more information regarding WebFile, please visit the website <https://webfile.workcomp.virginia.gov> or contact the Customer Contact Center at 877-664-2566.

**Workers' Compensation:** A mandatory insurance requirement for most employers which provides statutory benefits to covered workers who are injured in their employment. Virginia law requires every employer who regularly employs more than two employees, part-time or full-time, to carry workers' compensation coverage. If a business hires subcontractor to perform the same trade, business or occupation, or to fulfill a contract of the business, the subcontractor's employees are included in determining the total number of employees. Workers' compensation insurance is also required for every operator of underground coal mines. Employers with fewer than three employees or who meet another exception under the Act may voluntarily take out a workers' compensation

policy or qualify as a self-insurer. In Virginia there are four means of insuring for workers' compensation: (1) insurance carrier licensed for workers' compensation in Virginia; (2) employer authorized to self-insure by the Commission (must meet distinct criteria); (3) be a member of a licensed group self-insurance association; and (4) enter an agreement with a professional employer organization (PEO) registered in Virginia. Commercial coverage is available from an insurance agent or insurance carrier. The Commission cannot recommend one agent over another. The two Virginia insurance organizations that maintain membership of most insurance agents in Virginia are listed below:

1. The Independent Insurance Agents of Virginia, 804-747-9300
2. The Professional Insurance Agents Association of Virginia, 804-264-2582

**Work Restrictions:** The treating physician's description of the work an injured worker can and cannot do.



**Virginia Workers' Compensation Commission**  
**333 E. Franklin St.**  
**Richmond, Virginia 23219**  
**1-877-664-2566**  
**[www.workcomp.virginia.gov](http://www.workcomp.virginia.gov)**

The information contained in this glossary of terms is general in nature and is not intended as a substitute for legal advice. Changes in the law and/or the specific facts of your case may result in legal interpretations different than those presented here.























